

## § 1.1410

Maximum Pole Rate = Unusable Space Factor + Usable Space Factor

For purposes of this formula, the unusable space factor, as defined under Section 1.1417(b), and the usable space factor, as defined under Section 1.1418(b), shall apply per pole.

(3) Subject to paragraph (f) the following formula shall apply to pole attachments within a conduit system beginning on February 8, 2001:

Maximum Conduit Rate = Conduit Unusable Space Factor + Conduit Usable Space Factor

For purposes of this formula, the conduit unusable space factor, as defined under Section 1.1417(c), and the conduit usable space factor, as defined under Section 1.1418(c), shall apply to each linear foot occupied.

(f) Paragraphs (e)(2) and (e)(3) of this section shall become effective February 8, 2001 (i.e., five years after the effective date of the Telecommunications Act of 1996). Any increase in the rates for pole attachments that result from the adoption of such regulations shall be phased in over a period of five years beginning on the effective date of such regulations in equal annual increments. The five-year phase-in is to apply to rate increases only. Rate reductions are to be implemented immediately. The determination of any rate increase shall be based on data currently available at the time of the calculation of the rate increase.

[43 FR 36094, Aug. 15, 1978, as amended at 52 FR 31770, Aug. 24, 1987; 61 FR 43025, Aug. 20, 1996; 61 FR 45619, Aug. 29, 1996; 63 FR 12025, Mar. 12, 1998]

EFFECTIVE DATE NOTE: At 63 FR 12025, Mar. 12, 1998, §1.1409 was amended by revising paragraph (e) and adding a new paragraph (f). The revised and added text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. The text in effect until OMB clearance is obtained is set forth as follows:

### §1.1409 Commission consideration of the complaint.

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(e) Section 1.1404 shall apply to the rate for any pole attachment used by a cable system

## 47 CFR Ch. I (10–1–98 Edition)

operator solely to provide cable service. Until 47 U.S.C. 224(e) is implemented, §1.1404 shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service.

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### §1.1410 Remedies.

If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may:

(a) Terminate the unjust and unreasonable rate, term, or condition;

(b) Substitute in the pole attachment agreement the just and reasonable rate, term, or condition established by the Commission; and

(c) Order a refund, or payment, if appropriate. The refund or payment will normally be the difference between the amount paid under the unjust and/or unreasonable rate, term, or condition and the amount that would have been paid under the rate, term, or condition established by the Commission from the date that the complaint, as acceptable, was filed, plus interest.

[44 FR 31650, June 1, 1979]

### §1.1411 Meetings and hearings.

The Commission may decide each complaint upon the filings and information before it, may require one or more informal meetings with the parties to clarify the issues or to consider settlement of the dispute, or may, in its discretion, order evidentiary procedures upon any issues it finds to have been raised by the filings.

### §1.1412 Enforcement.

If the respondent fails to obey any order imposed under this subpart, the Commission on its own motion or by motion of the complainant may order the respondent to show cause why it should not cease and desist from violating the Commission's order.

### §1.1413 Forfeiture.

(a) If any person willfully fails to obey any order imposed under this subpart, or any Commission rule, or